



## MONTGOMERY COUNTY ETHICS COMMISSION

Steven Rosen  
*Chair*

Kenita V. Barrow  
*Vice Chair*

**November 9, 2016**

### **Advisory Opinion 16-11-026**

A national association representing a particular industry inquired whether it or its representatives would be required to register and report as lobbyists pursuant to Montgomery County's Public Ethics Law. The association and its representatives would be engaged in grassroots activities educating industry retailers in Montgomery County about pending legislation in the County that may impact their business. If, as a consequence of the provision of information by the association, a retailer wished to communicate with the County Council about the legislation, the communication would be conducted by the retailer itself. The association and its representatives would not directly communicate with County Council members or other County staff to influence legislation.

The Montgomery County Ethics Law sets forth the requirements for registration as a lobbyist in § 19A-21, including at (a)(1):

- (a) Any individual or organization must register as a lobbyist under this Article if, during a year, that individual or organization:
  - (1) communicates with a public employee to influence legislative action by a County agency, and for that purpose either:
    - (A) spends more than \$500, or
    - (B) receives compensation, including a pro-rated part of a salary or fee for services, totaling more than \$500 . . .

If there is no communication from the association or its representatives to a County employee, the requirement to register under this provision is not triggered. Conceivably, where industry retailers act as “agents” of an association in communicating to influence County legislative action, the communication requirement might be met, but the association has made it clear that each individual retailer decides for itself whether to communicate to the Council.

The Commission notes that the type of “grassroots” lobbying effort that the association is involved in here could be covered if the County were to amend its law to address activities having the express purpose of soliciting others to communicate with a public employee to influence legislative action. Also, if any of the retailers the association was educating about

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issues communicated to public employees to influence legislation and met the spending thresholds in the law, the registration requirement would apply as to the retailer.

For the Commission:



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Steven Rosen, Chair